

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Deborah A. Moscato,

Plaintiff,

v.

15-CV-1063
Decision and Order

United States of America,

Defendant.

On December 18, 2015, the plaintiff commenced this action under the Federal Tort Claims Act, 28 U.S.C. § 1346(b), for injuries she sustained in an automobile accident involving a car driven by a government employee. Docket Item 1.

On September 15, 2017, this Court referred this case to United States Magistrate Judge Hugh B. Scott for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 27. On September 14, 2017, the plaintiff moved for summary judgment, Docket Item 26; on October 4, 2017, the defendant cross-moved for summary judgment, Docket Items 29-32; and on November 15, 2017, both parties replied, Docket Items 34- 37. Judge Scott issued a Report and Recommendation (“R&R”) on February 8, 2018, finding that the plaintiff's motion should be granted in part (i.e., with respect to liability) and that the defendant's motion should be granted in part (i.e., with respect to economic loss). Docket Item 42. The parties did not object to the R&R, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court

must conduct a de novo review of those portions of a magistrate judge's recommendation to which objection is made. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Scott's R&R. Based on that review and the absence of any objections, the Court accepts and adopts Judge Scott's recommendation to grant the plaintiff's motion in part and grant the defendant's motion in part.

For the reasons stated in the R&R, the plaintiff's motion for summary judgment, Docket Item 26, is GRANTED in part (i.e., with respect to liability); the defendant's motion for summary judgment, Docket Item 29, is GRANTED in part (i.e., with respect to economic loss). The case is referred back to Judge Scott for further proceedings consistent with the referral order of September 15, 2017, Docket Item 27.

SO ORDERED.

Dated: March 21, 2018
Buffalo, New York

s/Lawrence J. Vilardo
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE